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8 **IN THE UNITED STATES DISTRICT COURT**
9 **FOR THE EASTERN DISTRICT OF CALIFORNIA**
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11 CARL FOUST,

12 Plaintiff,

13 v.

14 CALIFORNIA MEDICAL FACILITY,

15 Defendant.
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No. 2:21-CV-0540-DJC-DMC-P

ORDER

17 Plaintiff, a prisoner proceeding pro se, brings this civil rights action under 42
18 U.S.C. § 1983.

19 On August 10, 2023, the Court issued an order dismissing Plaintiff's second
20 amended complaint and directing Plaintiff to file a third amended complaint within 30 days. See
21 ECF No. 79. On September 1, 2023, the Court granted Plaintiff a 30-day extension of time to file
22 a third amended complaint. See ECF No. 81. On October 6, 2023, the Court granted Plaintiff an
23 additional 30-day extension of time. See ECF No. 84. As of December 4, 2023, Plaintiff had not
24 filed a third amended complaint as directed and the Court issued findings and recommendations
25 that this action be dismissed without prejudice for lack of prosecution and failure to comply with
26 court rules and orders. See ECF No. 87. Plaintiff filed objections on December 14, 2023. See
27 ECF No. 90.

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1 In his objections, Plaintiff states that he has been unable to comply with the
2 Court's prior orders to file a third amended complaint because he is developmentally disabled.
3 See id. In the interest of justice, the Court will vacate the December 4, 2023, findings and
4 recommendations and grant Plaintiff additional time to file a third amended complaint.

5 Accordingly, IT IS HEREBY ORDERED as follows:

- 6 1. The findings and recommendations issued on December 4, 2023, ECF No.
7 87, are VACATED.
- 8 2. The Court grants Plaintiff an extension of time to file a third amended
9 complaint as ordered on August 10, 2023.
- 10 3. Plaintiff shall file a third amended complaint within 60 days of the date of
11 this order.
- 12 4. The Clerk of the Court is directed to forward to Plaintiff a copy of the
13 Court's August 10, 2023, order at ECF No. 79.

14 Dated: January 25, 2024



DENNIS M. COTA
UNITED STATES MAGISTRATE JUDGE